

Inventors: Yeaman and Shen
Serial No.: 09/648,816
Filed: August 25, 2000
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REMARKS

Claims 67-79 are pending and under examination in the above-identified application.

Double Patenting Rejection

The rejection of claims 69 and 75 under the judicially created doctrine of obviousness-type double patenting as allegedly obvious over claim 1 of copending U.S. Patent No. 6,743,769, is respectfully traversed. Applicants respectfully request that this rejection be held in abeyance until there is an indication of allowable subject matter at which time Applicants will file a Terminal Disclaimer if appropriate.

Rejections under 35 U.S.C. § 102

Applicants respectfully traverse the rejection of claims 67 and 68 under 35 U.S.C. § 102(b), as allegedly anticipated by United States Patent No. 5,409,898, to Darveau et al.

The peptides set forth in the '898 patent differ from the claimed antimicrobial peptides by having non-identical natural amino acid residues at several positions. A synthetic analog of an amino acid is a non-natural amino acid. The Office argues that the term "synthetic analogs" does not mean non-natural amino acids. Applicants respectfully disagree. Synthetic means "not of natural origin" or "manmade." See Attachment A, excerpt from Webster's II New College Dictionary, Houghton Mifflin Co., 1999 ed. Similarly, "analog" means a "structural derivative of a parent compound." See Attachment B, excerpt from Webster's II New College Dictionary, Houghton Mifflin Co., 1999 ed. The non-identical natural amino acid residues of Darveau et al. are (1) of natural origin and (2) they are not structural derivatives of the amino acid residues of the claimed natural amino acid residues.

A natural peptide having non-identical natural amino acid residues at several positions compared to the claimed antimicrobial peptide does not represent a an antimicrobial peptide of claims 67-69 and 75. Accordingly, removal of the rejection of claims 67 and 68 under 35 U.S.C.

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§ 102(b), as allegedly anticipated by United States Patent No. 5,409,898, to Darveau et al. respectfully is requested.

CONCLUSION

In light of the Remarks herein, Applicants submit that the claims are now in condition for allowance and respectfully request a notice to this effect. Should the Examiner have any questions, he/she is invited to call the undersigned attorney.

Respectfully submitted,

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